IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

Bail Appl..No. 3751 of 2007()

CRIME NO.211/07 OF THE MATTANNUR POLICE STATION

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PETITIONERS/ACCUSED NOS.4,5 AND 6:

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1. K.K. ASIF, S/O. HARIS,
   AGED 21 YEARS, KIZHAKKAYILKANDY, CHENNAKKAL HOUSE,
   19TH MILE, CHAVASSERY.

2. M. SHUHAIB, S/O. MUHAMMED,
   AGED 22 YEARS, MAKKUKNNATH SIRAJ MANZIL,
   VELIYAMBRA, CHAVASSERY.

3. K. NASAR, S/O. ABDULLA,
   AGED 20 YEARS, KANDAMKODE NASEEMA MANZIL,
   VELIYAMBRA, CHAVASSERY.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

STATE OF KERALA THROUGH THE
SUB INSPECTOR OF POLICE, MATTANNUR POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 3751 OF 2007

Dated this the 21st day of June, 2007

ORDER

Application for regular bail. The petitioners are accused Nos.4, 5 and 6. They face allegations under Secs.395 and 153-A of the IPC. The alleged incident took place on 23/5/07. The crux of the allegations is that the petitioners all belonging to a particular community could not stand the conduct of a girl belonging to their community in the company of persons belonging to another community. On account of this irritation, they allegedly attacked the girl and the persons who were travelling with her. Abusive words which were sufficient to generate communal hatred were uttered against them. It is further alleged that the properties in the possession of the victims were snatched away by the accused persons. The petitioners surrendered before the learned Magistrate on 4/6/07. They continue in custody from that date.

2. The learned counsel for the petitioners submits that the allegations are totally incorrect and false allegations under Secs.153-A and 395 cannot go together. The petitioners have a theory that the local persons had raised objections to the immoral activities of the alleged victims and the petitioners being the local persons, are unnecessarily arrayed as accused. The petitioners were given over to the police custody for some period of time. No recovery has been effected from their possession. In these circumstances, continued detention of the petitioners is totally unnecessary, submits the learned counsel for the petitioners.

3. The learned Public Prosecutor opposes the application. The allegations are serious. Investigation is not complete. Stolen articles have not been recovered so far. Though the petitioners were given over to custody of the police, the police have not been able to recover the properties which are kept beyond reach of the police, submits the learned Prosecutor.

4. I have considered all the relevant inputs. In an application for bail, the court is bound to consider the nature and gravity of the allegation, the possibility of impact which such crimes generate in the mind of the members of the polity, the

stage of the investigation, the period of detention etc. Having considered all the relevant inputs, I am not persuaded to agree that this is a fit case where the petitioners deserve to be enlarged on bail at this stage.

5. This application is, in these circumstances, dismissed. I may hasten to observe that the petitioners shall be at liberty to move the learned Sessions Judge or this Court for bail again at a later stage of investigation – not, at any rate, prior to 2/7/07. The Investigator shall, in the meantime, make every endeavour to complete the investigation.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge